

§ 16.9

40 CFR Ch. I (7–1–03 Edition)

§ 16.9 Appeal of initial adverse agency determination on request for correction or amendment.

(a) Any individual whose request for correction or amendment is initially denied by EPA and who wishes to appeal may do so by letter to the Privacy Act Officer. The appeal shall contain a description of the initial request sufficient to identify it.

(b) The Privacy Act Officer shall make a final determination not later than 30 working days from the date on which the individual requests the review, unless, for good cause shown, the Privacy Act Officer extends the 30-day period and notifies the requester. Such extension will be utilized only in exceptional circumstances.

(c) In conducting the review of an appeal, the Privacy Act Officer will be guided by the requirements of 5 U.S.C. 552a (e)(1) and (e)(5).

(d) If the Privacy Act Officer determines to grant all or any portion of an appeal he or she shall so inform the requester and EPA shall make the correction or amendment and comply with § 16.8(d)(3).

(e) If the Privacy Act Officer determines not to grant all or any portion of an appeal he or she shall inform the requester:

(1) Of the determination and its basis;

(2) Of the requester's right to file a concise statement of reasons for disagreeing with EPA's decision;

(3) Of the procedures for filing such statement of disagreement;

(4) That such statements of disagreements will be made available in subsequent disclosures of the record, together with an agency statement (if deemed appropriate) summarizing its refusal;

(5) That prior recipients of the disputed record will be provided with statements as in paragraph (e)(4) of this section, to the extent that an accounting of disclosures is maintained under 5 U.S.C. 552a(c); and

(6) Of the requester's right to seek judicial review under 5 U.S.C. 552a(g).

§ 16.10 Disclosure of record to person other than the individual to whom it pertains.

EPA shall not disclose any record which is contained in a system of records it maintains except pursuant to a written request by, or with the written consent of, the individual to whom the record pertains, unless the disclosure is authorized by one or more of the provisions of 5 U.S.C. 552a(b).

§ 16.11 Fees.

No fees shall be charged for providing the first copy of a record or any portion to an individual to whom the record pertains. The fee schedule for reproducing other records is the same as that set forth in 40 CFR 2.120.

§ 16.12 Penalties.

The Act provides, in pertinent part:

“Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.” (5 U.S.C. 552a(i)(3).)

§ 16.13 General exemptions.

(a) *Systems of records affected.*

¶EPA-4 OIG Criminal Investigative Index and Files—EPA/OIG.

¶EPA-17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI.

(b) *Authority.* Under 5 U.S.C. 552a(j)(2), the head of any agency may by rule exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the system of records is maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws and which consists of:

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;